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## United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, DC 20510-6050

LES BROWNLEE, STAFF DIRECTOR  
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January 23, 2001

The Honorable Mitch E. Daniels  
Director, Office of Management and Budget  
Room 252, Old Executive Office Building  
17<sup>th</sup> and Pennsylvania Avenue  
Washington, D.C. 20503

Dear Mr. Daniels:

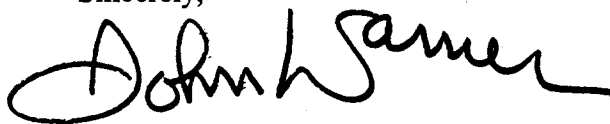
In section 1010 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Congress required the head of an agency acquiring services from a firm under a cost reimbursement contract requiring interim payments to pay an interest penalty if an interim payment was not made within 30 days of the receipt of a proper invoice. Section 1010 took effect by its terms on December 15, 2000. The Director of the Office of Management and Budget (OMB) was required by section 1010(b) to prescribe regulations to carry out this statute.

On December 15, 2000, OMB issued an interim final rule with request for comments (65 F.R. 78403). This rule makes the requirement imposed by section 1010 applicable to contracts awarded on or after the effective date of the statute, and gives agency heads discretion as to its application to contracts in existence on that date.

Section 1010(a) provides: "... [T]he head of an agency acquiring services from a business concern under a cost reimbursement contract requiring interim payments who does not pay the concern a required interim payment by the date that is 30 days after the date of the receipt of a proper invoice shall pay an interest penalty. ..." The statute makes no distinction between contracts in existence prior to December 15, 2000, and contracts awarded on or after that date. The provision applies to all cost reimbursement contracts for services requiring interim payments, regardless of the dates of those contracts. We expect OMB to correct section 1315.20 of the interim final rule when the final rule is issued, to comply with the intent of Congress in this matter.

With kind regards, I am

Sincerely,



John Warner  
Chairman

cc: Ms. Cynthia L. Johnson, Department of the Treasury  
cc: Mr. Bruce Dauer, Deputy Comptroller, Office of Secretary of Defense

PP-01